No. 10-567

In The
Supreme Court of the United States

MICHAEL B. KING,

Petitioner,

v.

ERIC FARRIS, KAREN AROMATORIA, AND THE CITY OF BYRON, GEORGIA,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Eleventh Circuit

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether Petitioner has presented compelling reasons to grant the Petition, where Petitioner contends there is no federal subject matter jurisdiction despite the fact that Petitioner filed a complaint that expressly alleged violations of the federal constitution and federal statutory laws.

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STATEMENT OF THE CASE

This action arises from a pro se attorney's attempt to sue a police officer, a judge, and a city for $1,500,000 over a traffic citation. Petitioner, the pro se attorney, drafted and filed a complaint in state court that expressly raised federal constitutional claims as well as claims under federal statutes. Petitioner's Complaint read as follows: "This action is brought pursuant to 42 U.S.C. Sections 1983, 1988, and 1991, RICO, 18 U.S.C. Sections 1961 et seq., the Fourth and Fourteenth Amendments to the United States Constitution and Georgia's statutory and constitutional laws."

Despite the clear language of Petitioner's Complaint, Petitioner claims the District Court had no subject matter jurisdiction over the matter. Furthermore, Petitioner has insisted that he did not raise or allege a federal cause of action. Finally, Petitioner appears to contend that because the District Court dismissed the case under Federal Rule of Civil Procedure 12(b)(6), the District Court's subject matter jurisdiction vanished.

Clearly such contentions do not comprise "compelling reasons" for the exercise of this Court's jurisdiction. As a result, the Petition for Writ of Certiorari should be denied.

STATEMENT OF FACTS

On May 6, 2008, Petitioner filed, on his own behalf, a complaint in Peach County Superior Court seeking money damages of $500,000.00 and punitive damages of $1,000,000. Respondents were served with summons and a copy of the complaint on May 9, 2008. The suit is based on a May 2006 traffic stop conducted by Officer Eric Farris and an August 2006 traffic court hearing conducted by Judge Aromatorio. On May 6, 2006, Petitioner was driving south on I-75 in Peach County, Georgia. Officer Farris stopped Petitioner on I-75 for traveling in excess of the posted speed limit and issued Petitioner a citation and an August 2006 court date.

Petitioner's traffic court hearing was held on August 21, 2006. At the conclusion of the 2006 hearing, Petitioner was found guilty of speeding and was ordered to pay a fine. Rather than a simple case of crime and punishment, Petitioner filed suit and contended that the City of Byron, Officer Farris, and Judge Aromatorio were guilty of violating Federal Constitutional Law, 42 U.S.C. Sections 1983, 1988, and 1991; Federal RICO Statutes; as well as the Georgia Constitution and unidentified Georgia statutes.

Paragraph 1 of Petitioner's Complaint states: "This action is brought pursuant to 42 U.S.C. Sections 1983, 1988 and 1991, RICO, 18 U.S.C. Sections 1961 et seq., the Fourth and Fourteenth Amendments

to the United States Constitution and Georgia's statutory and constitutional laws." Paragraph 19 of the Complaint states: "The defendants' action and inaction violated plaintiff's Fourth Amendment rights to protection from unreasonable search and seizure." Paragraph 20 of the Complaint states: "The defendants unlawfully extorted fines from plaintiff through a pattern of racketeering activity and action to collect an unlawful debt and such action affected interstate commerce." Petitioner now contends, in his brief to this Court, that the District Court never had jurisdiction to hear the case.

REASONS FOR DENYING THE PETITION

The decisions below did not conflict with the decisions of this Court or any Court of Appeals nor do they implicate a federal question that has not been decided by this Court. As a result, Petitioner has not carried his burden of demonstrating a "compelling reason" for the Petition to be granted. *See* Sup. Ct. R. 10.

Federal Subject Matter Jurisdiction Existed as Petitioner's Complaint Clearly Raised Federal Claims.

The Petition for Writ of Certiorari should be denied as the only question presented by Petitioner concerns federal subject matter jurisdiction. Given the language used by Petitioner in his Complaint,

this is a case of obvious federal subject matter jurisdiction. Under the well-pled complaint rule, an action "arises under" federal law "only when the plaintiff's statement of his own cause of action shows that it is based upon [federal law]." *Vaden v. Discover Bank*, 129 S.Ct. 1262, 1272 (2009). Where a complaint alleges a colorable federal cause of action, a district court has subject matter jurisdiction even if the complaint is dismissed for failure to state a claim. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 89, 118 S.Ct. 1003 (1998).

The first paragraph of Petitioner's Complaint references various federal statutes as well as multiple federal constitutional amendments. Petitioner raised additional federal questions in paragraphs 19 and 20 of his Complaint. Accordingly, Petitioner's Complaint alleged a colorable federal cause of action under *Vaden* and *Steel Co.* giving the District Court subject matter jurisdiction when the case was removed to federal court.

Petitioner appears to argue that, despite the well-pled contentions in his complaint, because the Respondents sought and obtained a Rule 12(b)(6) dismissal, the District Court never possessed subject matter jurisdiction to hear the case. This contention finds no support in the law and contradicts the well-pled complaint rule and this Court's holding in *Steel Co.* Respondents timely removed the case to federal court pursuant to 28 U.S.C. § 1441(a), (b), and (c), and therefore, the case was properly before the

Federal District Court for the Middle District of Georgia. As a result, the District Court had subject matter jurisdiction and Petitioner's appeal is without merit.

REQUEST FOR COSTS

Petitioner, an attorney acting pro se, has now argued to a federal district court, a federal court of appeals, and the Supreme Court of the United States of America that a complaint he drafted to include claims of violations of federal constitutional and statutory law did not plead a cause of action arising under federal law. Petitioner's appeal is frivolous and nonsensical. Therefore, Respondents request that this Court award them double costs under Supreme Court Rule 42.2.

CONCLUSION

Based on the foregoing, this Court should deny the Petition for Writ of Certiorari and award Respondents double costs.

Respectfully submitted,

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